

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014020406

ORDER DENYING REQUEST FOR  
CONTINUANCE

On March 27, 2014, the Irvine Unified School District (Irvine) filed a request to continue the due process hearing in this matter on the grounds that its counsel is unavailable due to other possible hearings and its representative is unavailable due to a vacation. On April 1, 2014, Student filed an opposition. As discussed below Irvine has failed to establish good cause and the request is denied.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Irvine moves to continue this matter on two grounds.<sup>1</sup> The first ground that its counsel may be in other due process hearings is not persuasive. Many special education matters settle just prior to the start of hearing, therefore, Irvine's contention of a possible conflict is not persuasive.

The second ground for a continuance is that the program specialist assigned to Student's matter is on vacation during the week of April 7, 2014, and she is a necessary participant. However, there is no information provided alleging that she possess any particular knowledge of Student or this matter such that another administrator could not sit in as Irvine's representative. Furthermore, while it is asserted that her vacation is pre-planned, no information is provided to support this assertion. This matter was filed on February 10, 2014. OAH noticed the hearing date for this mater in a scheduling order dated February 12, 2014. Neither a declaration under oath from the program specialist, nor any documentation establishing that she committed to her vacation prior to February 12, 2014, has been provided. Accordingly, Irvine's request is denied, without prejudice. Should Irvine be able to establish that the program specialist is necessary and she committed to her vacation prior to February 12, 2014, or should Irvine's counsel actually have a conflicting hearing move forward, Irvine may renew its motion.

IT IS SO ORDERED.

DATE: April 1, 2014

/s/

---

BOB N. VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings

---

<sup>1</sup> Because Student has filed an opposition, whether Student was agreeable to a short continuance, as Irvine asserted, is no longer a ground for a continuance.